

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA	:	
	:	
v.	:	1:20CR340-3
	:	
ERIC ALEXANDER MCMILLER	:	

FACTUAL BASIS FOR A GUILTY PLEA

NOW COME the United States of America, by and through Sandra J. Hairston, Acting United States Attorney for the Middle District of North Carolina, and Joseph S. Beemsterboer, Acting Chief, Criminal Division, Fraud Section, and state that the factual basis for a guilty plea is as follows:

Background

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act was signed into law in response to the economic fallout of the COVID-19 pandemic in the United States. One source of relief provided by the CARES Act was the authorization of up to \$349 billion in forgivable loans to small businesses for job retention and certain other expenses, through a program referred to as the Paycheck Protection Program (“PPP”). In or around April 2020, Congress authorized over \$300 billion in additional PPP funding.

In order to obtain a PPP loan, a qualifying business was required to submit a PPP loan application, which was signed by an authorized representative of the business. The PPP loan application required the business (through its authorized representative) to acknowledge the program rules and make certain affirmative certifications in order to be eligible to obtain the PPP loan. In the PPP loan application, the small business (through its authorized representative) was required to state, among other things, its: (i) average monthly payroll expenses; and (ii) number of employees. These figures were used to calculate the amount of money the small business was eligible to receive under the PPP. In addition, businesses applying for a PPP loan were required to provide documentation showing their payroll expenses.

PPP loan proceeds were required to be used by the business on certain permissible expenses: payroll costs, interest on mortgages, rent, and utilities. The PPP allowed the interest and principal on the PPP loan to be entirely forgiven if the business spent the loan proceeds on these expense items within a designated period of time after receiving the proceeds and used a certain amount of the PPP loan proceeds on payroll expenses.

Another source of relief provided by the CARES Act was the expansion of the Economic Injury Disaster Loan (“EIDL”) program administered by the United States Small Business Administration (“SBA”), an agency of the

executive branch of the United States Government. Specifically, the CARES Act authorized the SBA to provide EIDLs of up to \$2 million to eligible small businesses experiencing financial disruption due to the COVID-19 pandemic. The CARES Act also authorized the SBA to issue advances of up to \$10,000 to small businesses within three days of applying for an EIDL. The amount of the advance was determined by the number of employees the applicant certified having. The advances did not have to be repaid.

In order to obtain an EIDL and advance, a qualifying business was required to submit an application to the SBA and provide information about its operations, such as the number of employees, gross revenues for the 12-month period preceding the disaster, and cost of goods sold in the 12-month period preceding the disaster. The applicant was also required to certify that all of the information in the application is true and correct to the best of the applicant's knowledge. EIDL funds were permitted to be used for payroll expenses, sick leave, production costs, and business obligations, such as debts, rent, and mortgage payments.

PPP Conspiracy and Scheme to Defraud

From at least in or around May 2020, continuing up to and including in or around June 2020, the defendant, ERIC ALEXANDER MCMILLER, David Christopher Redfern, Joseph Marsell Cartlidge, Jesse Kendall Griffin, and

others knowingly and intentionally conspired to devise a scheme to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, by submitting and causing to be submitted false and fraudulent loan applications in order to obtain funds through the PPP.

During the course of the investigation, investigators interviewed a confidential human source (“CHS 1”) regarding CHS 1’s involvement in the PPP scheme. CHS 1 told investigators that CHS 1 used intermediaries to recruit individuals to apply for false and fraudulent PPP loans and, in return for preparing PPP loan application documentation for such individuals, sought a portion of the fraudulently obtained loan proceeds. MCMILLER, Redfern, Cartlidge, and Griffin each communicated with CHS 1 through one or more intermediaries and agreed to participate in the scheme and conspiracy.

MCMILLER, Redfern, Cartlidge, and Griffin each utilized registered businesses and claimed false business operations in furtherance of the fraud scheme. MCMILLER, Redfern, Cartlidge, and Griffin also utilized or attempted to utilize business and personal bank accounts at various financial institutions for the purpose of receiving fraudulent loan proceeds. In furtherance of the scheme, MCMILLER, Redfern, Cartlidge, and Griffin provided information, including personal and business identifying

information, to CHS 1 through one or more intermediaries in order to seek PPP loans. CHS 1 then used such information to prepare and cause to be prepared false and fraudulent supporting documentation, including bank account statements and tax filings, for PPP applications on behalf of MCMILLER, Redfern, Cartlidge, and Griffin.

During the course of the conspiracy, MCMILLER, in the Middle District of North Carolina, caused the submission of one fraudulent PPP application. Specifically, on or about June 3, 2020, MCMILLER caused the submission of a PPP application seeking a loan in the name of McMiller Enterprises LLC (“McMiller Enterprises”), a company that was registered with the North Carolina Secretary of State on or about February 25, 2020 and listed MCMILLER as the registered agent and owner. The registered business address for McMiller Enterprises was in Greensboro, North Carolina. Prior to the submission of the McMiller Enterprises PPP application, on or about May 6, 2020, MCMILLER opened a business account at bank branch located in High Point, North Carolina in the name of McMiller Enterprises (“McMiller Enterprises Account”), over which MCMILLER had sole signatory authority.

In the McMiller Enterprises PPP application, MCMILLER falsely affirmed or caused to be affirmed, among other information, that McMiller Enterprises had twenty-seven employees and an average monthly payroll of

\$229,144. The McMiller Enterprises PPP application appended as supporting documentation: (i) false and fraudulent purported IRS Forms 941 for all four quarters of 2019 showing \$687,432.60 paid in wages to twenty-seven employees per quarter; and (ii) a false and fraudulent bank statement for McMiller Enterprises dated February 27, 2020, showing a balance of \$290,028.70.

The McMiller Enterprises PPP application was denied by letter dated June 5, 2020. On or about June 11, 2020, MCMILLER emailed the financial technology company that processed the McMiller Enterprises PPP application to “clear up any problems” in connection with the denied application.

As a result of two false and fraudulent PPP application that Cartlidge caused to be submitted, Cartlidge caused the disbursement by interstate wire transfer of (i) \$403,120 in loan funds to an account controlled by Cartlidge in the name of Company 1, on or about June 2, 2020; and (ii) \$463,530 in loan funds to an account controlled by Cartlidge in the name of LBRNO LLC, on or about June 3, 2020. On or about June 10, 2020, MCMILLER attempted to deposit a \$250,000 check drawn from the Company 1 account into the McMiller Enterprises account. MCMILLER deposited the \$250,000 check in person at a bank branch located in High Point, North Carolina. Between June 3 and June 19, 2020, Cartlidge withdrew approximately \$454,000 via cash and cashier’s

check from the LBRNO account. Records obtained from Instagram reveal that MCMILLER and Cartlidge tagged each other in various photographs and/or Instagram stories during this time period. These photographs and videos show MCMILLER and Cartlidge with large amounts of cash and/or making luxury purchases.

Over the course of the conspiracy, MCMILLER, Redfern, Cartlidge, and Griffin collectively sought to fraudulently obtain approximately \$2,326,874 in PPP funds. All of the relevant disbursements and subsequent transfers were made by means of interstate wire to bank accounts controlled by MCMILLER and his co-defendants.

EIDL Scheme to Defraud

MCMILLER also devised a scheme to defraud by submitting and causing to be submitted false and fraudulent loan applications to the SBA in order to obtain funds through the EIDL program. In particular, between in or around June and August 2020, MCMILLER fraudulently sought one EIDL in the name of McMiller Enterprises and two EIDLs in the name of an “Eric mcmiller [sic]” sole proprietorship.

As a result of the first false and fraudulent EIDL application, submitted on or about June 16, 2020 in the name of McMiller Enterprises, MCMILLER caused the disbursement by interstate wire transfer, on or about June 18,

2020, of \$10,000 in EIDL advance funds from the SBA to the LBRNO account. This was during the period that Cartlidge withdrew large sums from the LBRNO account, and Instagram records show MCMILLER and Cartlidge with large amounts of cash and/or making luxury purchases. This false and fraudulent EIDL application was denied.

On or about June 23, 2020, MCMILLER opened an account in his name (“McMiller account”), over which MCMILLER had sole signatory authority. As a result of the second false and fraudulent EIDL application, submitted on or about June 29, 2020 in the name of an “Eric mcmliller [sic]” sole proprietorship, MCMILLER caused the disbursement by interstate wire transfer, on or about June 30, 2020, of \$10,000 in EIDL advance funds from the SBA to the McMiller account. This second false and fraudulent EIDL application was denied.

A third false and fraudulent EIDL application, also in the name of an “Eric mcmillar [sic]” sole proprietorship, was submitted on or about August 14, 2020 and was subsequently flagged by the SBA as a duplicate application and not funded.

This the 22nd day of September, 2021.

Respectfully submitted,

SANDRA J. HAIRSTON
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NYSB #4871406
Trial Attorney

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CERTIFICATE OF SERVICE

I hereby certify that on September 22, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following: Robert McClellan, Esq.

Respectfully submitted,

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